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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 Case No. 2:16-cv-03032-RFB-PAL

8 **ORDER**

9 BOAD OF TRUSTEES OF THE
10 TEAMSTERS LOCAL 631 SECURITY
11 FUND FOR SOUTHERN NEVADA;
12 BOARD OF TRUSTEES OF THE
13 TEAMSTERS CONVENTION INDUSTRY
14 TRAINING FUND,

11 Plaintiffs,

12 v.

13 LIGHTNING EXHIBITS, LLC; TAMMY L.
14 LASLEY,

14 Defendants.

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16 **I. INTRODUCTION**

17 Before the Court is Defendants' Motion for Summary Judgment (ECF No. 26) and
18 Plaintiffs' Motion for Summary Judgment (ECF No. 27).
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20 **II. FACTUAL BACKGROUND**

21 **A. Undisputed Facts**

22 The Court finds the following facts to be undisputed.

23 American Tradeshow (2007 – 2010)

24 In April 2007, Franklin Lasley opened American Tradeshow, Inc., a company that
25 exclusively provided installation and dismantle ("I&D") services for tradeshow exhibitors in cities
26 throughout the United States. Franklin Lasley operated and managed American Tradeshow.

27 Franklin Lasley's daughter-in-law, Tammy Lasley, was an employee of American
28 Tradeshow. She performed administrative tasks and did not engage in sales, operations, or

1 management. Franklin Lasley's three sons, Brian, Frank, and Michael Lasley, also worked for
2 American Tradeshow in non-managerial roles.

3 In May 2007, American Tradeshow bound itself to the terms of a Collective Bargaining
4 Agreement, which required certain timely payments to employees' Trust Funds. Plaintiffs allege
5 that American Tradeshow failed to make required payments to the Trust Funds.

6 In either December 2009 or January 2010, Franklin Lasley shut down American Tradeshow
7 for financial reasons.

8 Exhibit Design (2010 – 2011)

9 Franklin Lasley opened Exhibit Design & Production, Inc. ("Exhibit Design"). Exhibit
10 Design built tradeshow displays and rented them to exhibitors. As with American Tradeshow,
11 Franklin Lasley owned and operated the business, and Tammy, Brian, Frank, and Michael Lasley
12 worked in roles similar to those they held with American Tradeshow.

13 Exhibit Design operated out of the same office as American Tradeshow for some time, then
14 moved to a larger facility.

15 In December 2011, Franklin Lasley shut down Exhibit Design for financial reasons. The
16 company was formally dissolved on June 10, 2013. Franklin Lasley filed for Chapter 7 bankruptcy
17 and received a discharge on April 9, 2014.

18 Display Technologies (2012 – 2016)

19 On November 20, 2012, Franklin Lasley's three sons started Display Technologies, which
20 built tradeshow displays for design agencies. Brian, Frank, and Michael Lasley owned the
21 business. Tammy Lasley worked for Display Technologies as a bookkeeper. In August 2013,
22 Franklin Lasley worked approximately 30-40 hours a week in sales for Display Technologies. In
23 February 2015, Franklin Lasley did at least some consultation work for Display Technologies.

24 Display Technologies purchased vehicles, tools, and equipment formerly belonging to
25 Exhibit Design.

26 In September 2016, Display Technologies filed for bankruptcy.

27 Lightning Exhibits (2016 – Present)

28 In July 2016, Tammy Lasley opened Lightning Exhibits, LLC, a Florida limited liability

1 company. Lightning Exhibits primarily builds its own displays for tradeshow exhibitors but
2 performs I&D services for its displays in some locations. It is a smaller-scale operation than
3 American Tradeshow was.

4 Tammy Lasley is the owner of Lightning Exhibits. Brian and Michael Lasley work as
5 freelance contractors for Lightning Exhibits. Frank Lasley (Franklin Lasley's son, Tammy
6 Lasley's husband) is not formally employed by Lightning Exhibits but does at least some work for
7 Lightning Exhibits. Some number of Lightning Exhibit employees outside the Lasley family were
8 also employed by American Tradeshow, Exhibit Design, and Display Technologies.

9 Lightning Exhibits operates from the same address that American Tradeshow used.
10 However, American Tradeshow owned the building at the time of operation, while Lightning
11 Exhibits leases the space from a third party. Lightning Exhibits purchased some equipment
12 formerly belonging to Display Technologies.

13 Plaintiffs have already obtained default judgments against Display Technologies and
14 Exhibit Design for alter ego liability. 2:11-cv-01764-LDG-PAL, ECF Nos. 154, 163. At the
15 summary judgment phase in this earlier case, the court determined that genuine issues of triable
16 fact existed. 2:11-cv-01764 ECF No. 135.

17 **B. Disputed Facts**

18 The parties dispute the extent to which the Lasley family members have operated and
19 managed Display Technologies and Lightning Exhibits as a family business in which they jointly
20 managed daily operations and jointly supervised labor relations.

21 **III. PROCEDURAL BACKGROUND**

22 Plaintiffs filed their Complaint on December 30, 2016. ECF No. 1. Defendants filed their
23 Answer on February 14, 2017. ECF No. 12. Defendants and Plaintiffs each filed a Motion for
24 Summary Judgment on February 9, 2018. ECF Nos. 26, 27.

25 On March 23, 2018, in light of Glazing Health & Welfare Fund v. Lamek, 885 F.3d 1197
26 (9th Cir. 2018), Plaintiffs voluntarily dismissed their claim against Tammy Lasley. ECF Nos. 33,
27 34. Only their alter ego claim against Defendant Lightning Exhibits remains.
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1 **IV. LEGAL STANDARD**

2 **a. Motion for Summary Judgment**

3 Summary judgment is appropriate when the pleadings, depositions, answers to
4 interrogatories, and admissions on file, together with the affidavits, show “that there is no genuine
5 dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R.
6 Civ. P. 56(a); *accord Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). When considering the
7 propriety of summary judgment, the court views all facts and draws all inferences in the light most
8 favorable to the nonmoving party. *Gonzalez v. City of Anaheim*, 747 F.3d 789, 793 (9th Cir.
9 2014). If the movant has carried its burden, the non-moving party “must do more than simply
10 show that there is some metaphysical doubt as to the material facts. . . . Where the record taken as
11 a whole could not lead a rational trier of fact to find for the nonmoving party, there is no genuine
12 issue for trial.” *Scott v. Harris*, 550 U.S. 372, 380 (2007) (citation and internal quotation marks
13 omitted) (alteration in original).

14 **b. Alter Ego**

15 The alter-ego doctrine “prevent[s] employers from escaping their collective bargaining
16 obligations by shifting work to non-union firms they also own.” *UA ALF-CIO v. Nor-Cal*
17 *Plumbing*, 48 F.3d 1465, 1475 (9th Cir. 1994). The two-part alter ego test requires proof that (1)
18 the two firms constitute a “single employer” and (2) the non-union firm is used in a “sham effort
19 to avoid collective bargaining obligations, rather than for the pursuit of legitimate business
20 objectives.” *Id.*, 48 F.3d at 1470 (citations omitted).

21 To determine whether the two firms constitute a single employer, a court examines: (1)
22 common ownership; (2) common management; (3) interrelation of operations; and (4) centralized
23 control of labor relations. *Id.* at 1471 (citing *NLRB v. Don Burgess Constr. Corp.*, 596 F.2d 378,
24 384 (9th Cir.)). Not all criteria need to be present and none are controlling, but the “most important
25 factor is centralized control of labor relations, which can be demonstrated . . . by showing common
26 control of day-to-day labor matters.” *Id.* (citations omitted).

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1 Under the “sham effort” prong of the test, the court looks for “an element of fraud or
2 misrepresentation.” A. Dariano & Sons, Inc. v. Dist. Council of Painters No. 33, 869 F.2d 514,
3 519 (9th Cir. 1989).

4 5 **V. DISCUSSION**

6 Genuine issues of material fact remain as to whether Lightning Exhibits is an alter ego of
7 American Tradeshow.

8 **A. Common Ownership, Common Management, & Centralized Control**

9 It is undisputed that Frank Lasley managed and operated American Tradeshow and that
10 Tammy Lasley manages and operates Lightning Exhibits. But the common ownership,
11 management, and control of a familial unit can constitute a single employer. See, e.g., N.L.R.B.
12 v. Dane Cty. Dairy, 795 F.2d 1313, 1322 (7th Cir. 1986); Goodman Piping Prod., Inc. v. N.L.R.B.,
13 741 F.2d 10, 11–12 (2d Cir. 1984). Construed in favor of Defendants, the facts suggest that
14 Tammy Lasley independently owns and operates Lightning Exhibits, completely devoid of
15 Franklin Lasley’s involvement or overlap. But construed in favor of Plaintiffs, the facts suggest
16 that the same cast of family members continue to open and operate sequential businesses, simply
17 rotating which member of the family functions as the owner and operator and which members
18 function as the employees. Therefore, neither party satisfies the summary judgment standard as
19 to these three considerations.

20 **B. Interrelation of Operations**

21 Defendants present evidence that Lightning Exhibits is a small-scale operation, that it
22 performs very little I&D work, and that it uses different telephone numbers, fax numbers, banks,
23 and payroll companies. But Plaintiffs point to counter-evidence of overlapping employees,
24 equipment, and business locations. Because the record taken as a whole is not dispositive for either
25 party, whether Lightning Exhibits’s operations are sufficiently interrelated with American
26 Tradeshow’s such that the companies constitute a single employer remains a question for a jury’s
27 determination.

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